

# WVHA LEGISLATIVE UPDATE

**January 27, 2023**

Today is Day 17 of the Regular Session and more than [1600 bills](#) have been introduced in the Legislature. Action is moving swiftly on several bills of interest to WV hospitals including [HB 2436](#) relating to acuity-based nurse staffing. Other developments involving hospitals and health care are happening at the State Capitol and below is a brief rundown of the action. If you have a question about bills introduced in the Legislature, please contact [me](#).

## **Acuity-based nursing legislation advances**

The House Health Committee this week advanced [HB 2436](#) – which deals with the implementation of an acuity-based patient classification system for nursing care. The 2<sup>nd</sup> reference to the House Judiciary Committee was dropped which means the bill is now before the full House for consideration. This legislation applies to all licensed hospitals and all state-owned and operated hospitals. It also applies to acute psychiatric hospitals, or any acute-care unit within a state operated facility. Key provisions, which are to be implemented by July 1, 2024, require a facility to:

- Develop an acuity-based patient classification system to be used to establish the staffing plan to be used for each unit,
- Direct each unit nurse staffing committee (*defined in the bill*) to annually review the facility's current acuity- based patient classification system and submit recommendations to the facility for changes based on current standards of practice;
- Submit, by July 1, 2024, and annually thereafter to the state Department of Homeland Security, the prospective staffing plan for each facility by unit. This staffing plan is protected information; and
- Provide orientation, competency validation, education, and training programs.

The WVHA Legislative Team would like to thank Dr. Krystal Atkinson, Chief Administrative Officer, Mon Health Medical Center and Chief Nursing Executive Officer and Senior Vice President, Mon Health System, for taking time to come to the State Capitol on Tuesday to help express some of the operational challenges associated with this bill.

Other nursing related bills of interest to hospitals:

- [SB 89](#) - As originally introduced, this bill would have required hospitals to staff qualified personnel to perform sexual assault forensic exams. The bill was modified by the Senate Health Committee last week to replace the words: "shall staff" with "shall have on-call and available". This is meant to allow for the sharing of these health care professionals between hospitals, as opposed to mandating each hospital employ a SANE nurse. The second change is the addition of an internal effective date of July 1, 2024. The delay is to allow more opportunities to get health care

professionals certified. More changes are expected as all stakeholders want to ensure the bill is fully operational and that appropriate staff are available to provide service. This bill is currently before the House Health Committee for consideration.

- [HB 2592](#) – This bill establishes a nurse staffing and safe harbor peer review process. As outlined in the bill: safe harbor is a nursing peer review process that a nurse may initiate when asked to engage in an assignment or conduct that the nurse believes in good faith would potentially result in a violation of the Nursing Practice Act (NPA) or Board of Nursing rules or be a violation of the nurse’s duty to a patient. The bill sits in the House Health Committee.

### **Rural Emergency Hospital (REH) legislation introduced in the House**

This week, [HB 2993](#) was introduced to create state licensure for the new Rural Emergency Hospital (REH) model authorized with the passage of the federal Consolidated Appropriations Act of 2021. Provisions in federal law provide an opportunity for Critical Access Hospitals (CAHs) and certain rural hospitals to be designated as an REH. HB 2993 was introduced because state licensure is a necessary requirement under federal law to qualify for this designation. The WVHA Legislative Team worked collaboratively with legislators to introduce this bill which is currently in the House Health Committee for consideration.

### **PEIA legislation and other priority bills**

- Legislators continue to express their support for addressing hospital payments associated with PEIA and other matters involving the agency but there’s been no movement on PEIA related bills this week. The primary ones to watch include: [SB 127](#) – increasing PEIA inpatient rates to hospitals to 110% of Medicare - effective July 1, 2023. This bill remains in the House Banking and Insurance Committee for consideration; and Senate bills: [SB 268](#) (Senate Health Committee) and [HB 2534](#) (House Banking and Insurance Committee)- both addressing structural changes to PEIA. It’s worth noting that representatives of PEIA will be presenting their budget to the House Finance Committee on Monday afternoon 1/30.
- [HB 2759](#) - expanding the eligible physicians that can participate in the Physician Payment Improvement Program – House Finance Committee; and
- [SB 267](#) –streamlining the prior authorization process – Senate Health Committee

### **Certificate of Need bills introduced in the House**

Several Certificate of Need (CON) bills have been introduced in the House so far including:

- [HB 2789](#) – relating to exempting birthing centers from certificate of need;
- [HB 2196](#) – removing opioid treatment programs from requiring a certificate of need;
- [HB 2419](#) –eliminating the CON moratorium on opioid treatment programs;
- [HB 2427](#) – relating to intermediate care facilities;
- [HB 2438](#) – exempting the requirement of certificate of need for a long-term health care facility that increases the number of beds by 5 percent for occupation by veterans; and
- [HB 3115](#) – allowing for the development of a specialized intermediate care facility for individuals with intellectual and developmental disabilities.

### **Hospital related bills on the radar**

Below is a small sampling of bills introduced impacting hospitals:

- [HB 2186](#) – relating to surgical smoke evacuation – House Health Committee
- [HB 2416](#) - limiting the number of parents that are able to attend appointments for their children – House Health Committee
- [HB 2501](#)- require hospitals with no ASL interpreter on staff provide technology for hearing or speech impaired – House Health Committee
- [HB 2368](#) – fines for hospitals that do not allow at least one visitor – House Health Committee
- [HB 2376](#) - ensure hospitals do not provide lesser treatment to unvaccinated individuals – House Health Committee
- [HB 3116](#) -creating no patient left alone act – House Health Committee
- [SB 255](#) - prohibiting discrimination against patients for declining or delaying vaccines – Senate Health Committee

If you have any questions about bills featured in this Report or bills introduced, please feel free to contact me, [Jim Kaufman](#) or [Brandon Hatfield](#). Thanks.

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